

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America)

v.)

Nathaniel Ashford)

Date of Previous Judgment: 11/8/04
(Use Date of Last Amended Judgment if Applicable)

) Case No: 3:04CR39-11

) USM No: 19521-058

) Tanzania C. Cannon-Eckerle & Claire J. Rauscher

) Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 27

Amended Offense Level: 25

Criminal History Category: II

Criminal History Category: II

Previous Guideline Range: 120 to 120 months

Amended Guideline Range: 120 to 120 months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction is authorized because Defendant's original sentence was "based on" a departure from the statutory mandatory minimum and not on a sentencing range lowered by Amendment 706. See *United States v. Hood*, --- F.3d ---, 2009 WL 416979 (4th Cir. Feb. 20, 2009).

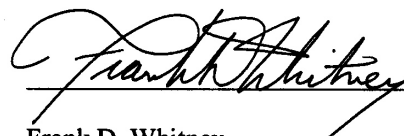
III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated 11/8/04 shall remain in effect.

IT IS SO ORDERED.

Order Date: February 24, 2009

Effective Date: _____
(if different from order date)



Frank D. Whitney
United States District Judge

